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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91223374
Party	Defendant Blake's Lotaburger, LLC
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Submission	Motion to Dismiss 2.132
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Date	07/27/2016
Attachments	Motion to dismiss in proceeding 91223374.pdf(5329 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Application No. 86/629,868
Mark: BLAKE'S
Filed: May 14, 2015
Published: August 11, 2015

HOBEL, INC.,
Opposer,

v.

Opposition No. 91223374

BLAKE'S LOTABURGER, LLC,
Applicant.

**MOTION FOR INVOLUNTARY DISMISSAL FOR FAILURE TO TAKE TESTIMONY
UNDER 37 C.F.R. § 2.132(a)**

Applicant, Blake's Lotaburger, LLC, by and through its attorneys, hereby moves, pursuant to Trademark Rule § 2.132(a), for dismissal of the subject opposition proceeding because Opposer, Hobel, Inc., has failed to prosecute same. The thirty-day testimony period for Opposer expired on July 24, 2016, and Applicant is not aware of any effort by Opposer to change trial dates or take any testimony, nor has Applicant been served by Opposer with any notices for taking testimony or motions for extending trial dates. As such, Applicant respectfully believes Opposer is no longer able to obtain testimony and submit the evidence necessary to prove its case. Accordingly, Applicant respectfully requests dismissal of the subject opposition proceeding as it should no longer be necessary for Applicant to obtain testimony and produce evidence to defend the opposition in its thirty-day testimony period which is scheduled to begin on August 22, 2016.

DATE: July 27, 2016

Respectfully submitted,

MODRALL, SPERLING, ROEHL, HARRIS
& SISK, P.A.

By /s/ Barry J. Berenberg
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CERTIFICATE OF SERVICE

It is hereby certified that this Motion or a true copy of it was sent via the delivery methods specified below, this 27th day of July, 2016, to:

Via first class mail, postage prepaid:

Tawnya Wojciechowski
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By /s/ Barry J. Berenberg
Barry J. Berenberg
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